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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/359,793	07/26/1999	YOUICHI YAMADA	P7156-9038	3277

7590 09/23/2003

ARENT FOX KINTNER PLOTKIN & KAHN PLLC  
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EXAMINER

FLETCHER, MARLON T

ART UNIT

PAPER NUMBER

2837

DATE MAILED: 09/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/359,793	YAMADA ET AL.
	Examiner	Art Unit
	Marlon T Fletcher	2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 26 June 2003.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-16 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-16 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-16 are rejected under 35 U. S. C. 102(b) as being anticipated by Marx (6,175,632).

As recited in claims 1, 7, 9, and 10-16, Marx discloses an audio signal processing apparatus capable of changing the tempo of an input audio signal (12), said apparatus comprising: magnification designating means (38) capable of designating a plurality of different magnifications as discussed in column 16, lines 6-46 and as discussed in column 8, line 66 through column 9, line 5, wherein a range can be selected for BPMs, said different magnifications being at least one of  $1/n$  and  $n$ , wherein  $n$  is an integer as inherently understood by the change in tempo, wherein the change is by some number or a fraction thereof as discussed in column 8, line 66 through column 9, line 5, which represents integers (BPMs 50-95, 80-150, and 130-199), and column 16, lines 6-30, where the taps of button (38) provides an unmeasured change which could be an integer (which can even) or fraction (which can be even) and as discussed in column 10, lines 27-43, wherein quarter-note and sixteenth note structures are utilized; means capable of automatically detecting beats per minute of the input audio signal (12) or a beat period of the input audio signal (12), changing said beats per

minute or said beat period by computing the detected beats per minute or the detected beat period by computing the detected beats per minute or beat period with a magnification designated by the magnification designating means, and changing the tempo of the input audio signal in accordance with the changed beats per minute or the changed beat period as discussed in column 16, lines 6-46. With respect to claims 9 and 10, based on the above, one could use magnifications  $\frac{1}{4}$ , 2, 4, and many other integers (even) or fractions (even) which provide BPMS ranging from 50-199. The beat assist button (38) allows the user to modify the tempo which automatically modifies the BPMs, wherein changing the tempo is synchronizable with the input, wherein it merely shifts the beat as discussed in column 16, lines 6-46.

As recited in claim 2, Marx discloses an audio signal processing apparatus, wherein manual designating means is provided for designating any optional value serving as a beats per minute and a beat period as discussed in column 8, line 66 through column 9, line 5.

As recited in claim 3, Marx discloses an audio signal processing, wherein fine adjustment means is provided to effect a fine adjustment on a beats per minute and a beat period as discussed in column 16, lines 6-46.

As recited in claim 4, Marx discloses an audio signal processing apparatus, wherein indicators (42, 44) are provided to indicate beats per minute and a beat period.

As recited in claim 5, Marx discloses an audio signal processing apparatus, wherein a mixer (10) is provided such that a changed tempo audio signal generated by changing the tempo of said audio signal may be mixed with said input audio signal,

thereby producing a newly formed audio signal as disclosed in the abstract and as discussed in column 6, lines 22-28.

As recited in claim 6, Marx discloses an audio signal processing apparatus, wherein mixing ratio adjusting means is provided to adjust a mixing ratio, when said changed tempo audio signal generated by changing the tempo of said input audio signal is mixed with said input audio signal, thereby producing a newly formed audio signal as discussed in column 7, lines 16-29 and column 16, lines 15-33.

As recited in claim 8, Marx discloses an audio signal processing apparatus, wherein the input audio signal comprises an analog signal (12), the analog signal is converted into a digital signal at A/D converter (204), a signal level changing period of the digital signal is detected, and a plurality of level changing periods are automatically counted so as to automatically measure a BPM of the input audio signal as discussed in column 10, line 27 through column 11, line 17.

#### ***Response to Arguments***

1. Applicant's arguments filed 06/26/2003 have been fully considered but they are not persuasive. While the arguments have been carefully reviewed, the examiner believes that as claimed, Marx provides the invention, wherein BPMs of an input are detected and a user by operation means is allowed to change the tempo and bpm, by a desired amount, wherein this amount can be any integer or fraction thereof, wherein the range of bpm or tempo is specifically stated.

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marlon Fletcher whose telephone number is (703) 308-0848.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi, can be reached on (703) 308-3370.

The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7722.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Marlon T. Fletcher  
Primary Examiner  
Art Unit 2837

MTF  
September 21, 2003